

MINUTES

**NATIVE AMERICAN GRAVES PROTECTION AND
REPATRIATION REVIEW COMMITTEE**

**ADMINISTRATIVE MEETING OF THE
SUBCOMMITTEE CREATED PURSUANT TO
25 U.S.C. 3006 (b)(1)(C)**

JUNE 8, 2009

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Background

The Native American Graves Protection and Repatriation Review Committee was established under the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 et seq..

Pursuant to 25 U.S.C. 3006 (c) and (h), the Review Committee is responsible for –

1. Designating one of the members of the committee as chairman;
2. Monitoring the inventory and identification process conducted under sections 5 and 6 to ensure a fair, objective consideration and assessment of all available relevant information and evidence;
3. Upon the request of any affected party, reviewing and making findings related to-
 - A. The identity or cultural affiliation of cultural items, or
 - B. The return of such items;
4. Facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of such items including convening the parties to the dispute if deemed desirable;
5. Compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains;
6. Consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the committee affecting such tribes or organizations;
7. Consulting with the Secretary in the development of regulations to carry out this Act;
8. Performing such other related functions as the Secretary -may assign to the committee;
9. Making recommendations, if appropriate, regarding future care of cultural items which are to be repatriated; and
10. Submitting an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

Pursuant to 25 U.S.C. 3006 (b), the Review Committee is composed of 7 members –

- (A) 3 of whom shall be appointed by the Secretary of the Interior from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders with at least 2 of such persons being traditional Indian religious leaders;
- (B) 3 of whom shall be appointed by the Secretary from nominations submitted by national museum organizations and scientific organizations; and
- (C) 1 who shall be appointed by the Secretary from a list of persons developed and consented to by all of the other appointed members.

The Review Committee is organized and administered according to the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1994).

The Review Committee advises the Secretary of the Interior. Under the Review Committee's charter, the Manager, National NAGPRA Program, National Park Service (NPS) or a designee serves as the Designated Federal Officer (DFO), who oversees the activities of the Review Committee. The National NAGPRA Program also provides administrative and staff support to the Review Committee on behalf of the Secretary of the Interior.

Additional information about the Review Committee – including the Review Committee's charter, membership, meeting protocol, and dispute procedures – is available at the National NAGPRA Website, <http://www.cr.nps.gov/nagpra/> (click on "Review Committee").

Administrative Meeting of the Subcommittee of the Review Committee

Finalizing the consented-to list of persons from which the Secretary of the Interior shall choose the at-large Review Committee member was on the agenda for the public meeting of the Review Committee, in Seattle, Washington on May 23-24, 2009, but, as Ms. Donna Augustine did not participate in that meeting and, as the other subcommittee

members desired to include all of the subcommittee members in developing the consented-to list, the subcommittee decided to defer action on the list for a period of approximately two weeks.

On June 8, 2009, a telephonic, administrative meeting of the subcommittee of the Review Committee, which Congress created pursuant to 25 U.S.C. 3006 (b)(1)(C), was called by Mr. David Tarler at 3:05 p.m. EST. Roll call was taken, and all of the subcommittee members were present.

Subcommittee members –
Mr. Dan Monroe – Chair
Ms. Sonya Atalay
Ms. Donna Augustine
Mr. Alan Goodman
Mr. Eric Hemenway

At-large member and Review Committee Chair --
Mr. Colin Kippen

Designated Federal Officer –
Mr. David Tarler, National NAGPRA Program, National Park Service

National Park Service and Other Department of the Interior staff –
Ms. Sherry Hutt, Program Manager, National NAGPRA Program, National Park Service
Ms. Carla Mattix, Division of Parks and Wildlife, Office of the Solicitor, Department of the Interior
Mr. Stephen Simpson, Division of Indian Affairs, Office of the Solicitor, Department of the Interior
Ms. Lesa Koscielski, Contractor, National NAGPRA Program, National Park Service

Opening Remarks

Mr. Kippen stated that the administrative meeting was called in order for the subcommittee to develop a consented-to list of persons from which the Secretary of the Interior will appoint the at-large member. This item was on the Review Committee's agenda for the public meeting in Seattle, WA on May 23-24, 2009, but in order to ensure the participation of Ms. Donna Augustine, who was absent for personal and family health reasons, this work was deferred.

Mr. Kippen stated that the list to be submitted to the Secretary needed to have the consensus of all of the Review Committee members appointed pursuant to 25 U.S.C. 3006 (b)(1)(A) and (B). Mr. Kippen confirmed that all of these members were present. Mr. Kippen stated that he had requested and received a formal, written legal opinion from Counsel, Ms. Mattix and Mr. Simpson, concerning a number of issues involving this subcommittee meeting that Mr. Kippen had raised with Counsel following the Seattle meeting of the Review Committee. Mr. Kippen stated that he conducted his own legal research on the issues he raised with Counsel, and that, although he was of the opinion that this meeting should have been a public meeting noticed in the Federal Register, he would defer to Counsels' opinion that this subcommittee meeting to develop a consented-to list of persons could permissibly be a closed meeting, as the work to be undertaken by the subcommittee would be administrative work.

Mr. Kippen is currently the at-large member of the Review Committee (his term will expire on August 8, 2009). As the at-large member, Mr. Kippen was not a member of this subcommittee and, therefore, was ineligible to participate in developing and consenting to the list of persons for the at-large member position. Mr. Kippen asked Mr. Dan Monroe, who was elected Review Committee Vice-Chair at the Seattle, WA meeting, to chair the administrative meeting of the subcommittee.

Discussion of the Process for Developing a Consented-to List of Persons for the At-Large Member Position

Mr. Monroe stated that, as a threshold matter, the subcommittee should decide whether to proceed with the administrative meeting and develop a consented-to list of persons to submit to the Secretary, or to delay action on

this item, publish a meeting notice in the Federal Register, and reconvene in a public, telephonic meeting. Mr. Monroe stated that, regardless of whether the meeting is public or closed, outside commentary would not be solicited by members of the public, and the results of the meeting would be readily accessible to the public. Mr. Monroe stated that both options provide for a transparent process.

After discussion, the subcommittee members unanimously agreed to develop the consented-to list of persons during this closed, administrative meeting.

Nominations to the Subcommittee for the List of Persons

Discussion

Mr. Monroe stated that subcommittee members had nominated four persons for inclusion on the list during earlier, public meetings of the Review Committee. Mr. Tarler stated that the four names were Mr. Chip Colwell-Chanthaphonh, Mr. Clayton Dumont, Mr. Colin Kippen, and Ms. Rosita Worl. Mr. Monroe stated that the subcommittee was familiar with two of the individuals under consideration, Mr. Kippen and Ms. Worl, and asked for additional information on Mr. Colwell-Chanthaphonh and Mr. Dumont.

Ms. Atalay stated that she had suggested both names, and gave a brief description of each individual's background. Mr. Colwell-Chanthaphonh works at the Denver Natural History Museum, is involved with research on repatriation and NAGPRA, received his PhD in anthropology from Indiana University and, though not a Native person, had worked extensively with Native communities. Mr. Dumont is a professor of sociology at San Francisco State University and has authored publications on NAGPRA. Ms. Atalay stated that Mr. Dumont was a Native person, but that she did not know whether or not he was a member of a federally recognized Indian tribe. Mr. Tarler stated that Mr. Dumont testified before the Review Committee at the San Diego, CA meeting in October 2008, appearing with a group of faculty from San Francisco State University.

Motion

Mr. Goodman stated he would be most comfortable forwarding the names of Mr. Kippen and Ms. Worl, as they both had made outstanding contributions while serving on the Review Committee, and both offered valuable senior leadership experience. Mr. Goodman made a motion to submit a list with the names of Mr. Colin Kippen and Ms. Rosita Worl to the Secretary. The motion died for lack of a second.

Motion

Ms. Atalay made a motion to submit a list with the names of Mr. Chip Colwell-Chanthaphonh, Mr. Clayton Dumont, Mr. Colin Kippen, and Ms. Rosita Worl to the Secretary. Mr. Hemenway seconded the motion.

Mr. Goodman asked about nominating individuals who were not members of a federally recognized Indian tribe or a Native Hawaiian organization. Mr. Tarler stated that to date, there had been three at-large members -- Mr. Jonathan Haas, Ms. Vera Metcalf, and Mr. Colin Kippen. Of those three, Mr. Haas (an anthropologist from the Field Museum of Natural History in Chicago, IL) was not a Native person. Mr. Monroe stated that subsequent to Mr. Haas's term, the Review Committee made a conscious choice to seek a Native American representative who would offer a very broad perspective through his or her background and professional discipline.

Ms. Koscielski stated she reviewed the transcript of the San Diego, CA Review Committee meeting and that, during his comment to the Review Committee, Mr. Dumont had identified himself as a member of the Klamath Tribe from Southern Oregon and a professor of sociology at San Francisco State University. Mr. Simpson confirmed that the Klamath Tribe was a federally recognized Indian tribe.

Ms. Atalay amended her earlier motion, and moved that the list to be submitted to the Secretary of the Interior contain the names of Mr. Clayton Dumont, Mr. Colin Kippen, and Ms. Rosita Worl. Mr. Goodman seconded the motion. Ms. Atalay called the question. The motion passed unanimously.

Mr. Monroe thanked the subcommittee and recognized Mr. Kippen.

Closing Remarks

Mr. Kippen stated that he was satisfied that the list of persons complied with the requirements of 25 U.S.C. 3006 (b)(1)(C). Mr. Tarler stated that he would submit the names of Mr. Clayton Dumont, Mr. Colin Kippen, and Ms. Rosita Worl to the Secretary of the Interior, who, in turn, would choose the at-large Review Committee member from among those names. Mr. Kippen thanked everyone for their time.

Meeting Adjournment

The meeting was adjourned at 3:38 p.m. EST, Monday, June 8, 2009.

Certified –

Signed

Mr. David Tarler,
Program Officer, National NAGPRA Program
Designated Federal Officer, Native American Graves Protection
and Repatriation Review Committee

June 30, 2009

Date

Approved on behalf of the Subcommittee of the Review Committee –

Signed

Mr. Dan Monroe
Chair, Subcommittee of the Native American Graves Protection
and Repatriation Review Committee created pursuant to 25 U.S.C. 3006 (b)(1)(C)

June 24, 2009

Date